

ORDINANCE NO. 10-02

ORDINANCE GRANTING A VARIANCE PERMIT TO ALLOW AN OVERSIZED ACCESSORY BUILDING WITH 885.5 SQUARE FEET IN TOTAL FLOOR AREA, WHERE A MAXIMUM OF 500 FEET IS ALLOWED, AND GRANTING AN ADJUSTMENT OF 6.68 FEET AS TO THE REAR SETBACK, WHERE 7.5 FEET ARE REQUIRED, AND AN ADJUSTMENT OF 0 FEET, AS TO THE SIDE SETBACK, WHERE 5.1 FEET ARE REQUIRED, CONTRA TO HIALEAH CODE §§ 98-501, 98-502 AND 98-1666. **PROPERTY LOCATED AT 308 EAST 43 STREET, HIALEAH, FLORIDA.** REPEALING ALL ORDINANCES OR PARTS OF ORDINANCES IN CONFLICT HERewith; PROVIDING PENALTIES FOR VIOLATION HEREOF; PROVIDING FOR A SEVERABILITY CLAUSE; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, the Planning and Zoning Board at its meeting of December 9, 2009, recommended approval of this ordinance.

NOW, THEREFORE, BE IT ORDAINED BY THE MAYOR AND THE CITY COUNCIL OF THE CITY OF HIALEAH, FLORIDA, THAT:

Section 1: The below-described property is hereby granted a variance permit to allow an oversized accessory building with 885 square feet, more or less, in total floor area, where a maximum of 500 square feet is allowed, and granting an adjustment of 6.68 feet, as to the rear setback, where 7.5 feet are required, and an adjustment of 0 feet, as to the west side setback, where 5.1 feet are required, to accommodate a metal roof, contra to Hialeah Code §§ 98-501, 98-502 and 98-1666, which provide in pertinent part: "In the R-1 one-family district, there shall be side yards, the width of each to be not less than ten percent of the average width of the lot, but in no case shall each such side yard be less

than five feet one inch...”, “In the R-1 one-family district, every principal residential building shall provide a rear yard of a minimum depth of 20 feet to a rear lot line or front of accessory building” and “No accessory structure or building shall exceed 35 percent of the size of the main structure or building; provided, however, that in no event shall the accessory structure or building exceed 500 square feet in floor area”, respectively. Property located at 308 East 43 Street, Hialeah, Miami-Dade County, Florida, zoned R-1 (One Family District), and legally described as follows:

LOTS 18 AND 19, OF SUNSET MANOR NUMBER 2,
ACCORDING TO THE PLAT THEREOF, AS
RECORDED IN PLAT BOOK 11, PAGE 1, OF THE
PUBLIC RECORDS OF MIAMI-DADE COUNTY,
FLORIDA.

Section 3: Repeal of Ordinances in Conflict.

All ordinances or parts of ordinances in conflict herewith are hereby repealed to the extent of such conflict.

Section 4: Penalties.

Every person violating any provision of the Code or any ordinance, rule or regulation adopted or issued in pursuance thereof shall be punished by a civil penalty not to exceed \$500.00 within the discretion of the court or administrative tribunal having jurisdiction. Each act of violation and each day upon which any such violation shall occur shall constitute a separate offense. In addition to the penalty prescribed above, the city may pursue other remedies such as abatement of nuisance, injunctive relief, administrative adjudication and revocation of licenses or permits.

Section 5: Severability Clause.

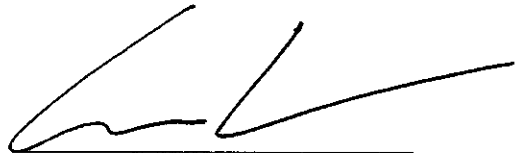
If any phrase, clause, sentence, paragraph or section of this ordinance shall be declared invalid or unconstitutional by the judgment or decree of a court of competent jurisdiction, such invalidity or unconstitutionality shall not affect any of the remaining phrases, clauses, sentences, paragraphs or sections of this ordinance.

Section 6: Effective Date.

This ordinance shall become effective when passed by the City Council and signed by the Mayor or at the next regularly scheduled City Council meeting, if the Mayor's signature is withheld or if the City Council overrides the Mayor's veto.

PASSED and ADOPTED this 12th day of January, 2010.

THE FOREGOING ORDINANCE
OF THE CITY OF HIALEAH WAS
PUBLISHED IN ACCORDANCE
WITH THE PROVISIONS OF
FLORIDA STATUTE 166.041
PRIOR TO FINAL READING.



Carlos Hernandez
Council President

Attest:

Approved on this ____ day of _____, 2010.

MAYOR'S SIGNATURE WITHHELD

Rafael E. Granado, City Clerk

Mayor Julio Robaina

Approved as to form and legal sufficiency:



William M. Grodnick, City Attorney

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Ordinance was adopted by a unanimous vote with Councilmembers, Caragol, Casals-Muñoz, Cue, Garcia-Martinez, Gonzalez, Hernandez, and Yedra voting "Yes".

Ordinance was passed and adopted by the Hialeah City Council on January 12, 2010 and became effective January 26, 2010 without Mayor's signature.